

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING
ROOM 113
THURSDAY, AUGUST 3, 2000
8:15 A.M.**

Commissioners Present: Kathy Campbell, Chair
Linda Steinman
Bernie Heier
Bob Workman

Commissioners Absent: Larry Hudkins

Others Present: Kerry Eagan, Chief Administrative Officer
Dave Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Gwen Thorpe, Deputy County Clerk
Ann Taylor, County Clerk's Office

AGENDA ITEM

1 APPROVAL OF STAFF MEETING MINUTES OF THURSDAY, JULY 27, 2000

Campbell requested that Item 2E, Paragraph 1 be amended to read as follows:

Campbell said the Conveners Group met on Tuesday and requested a delineation of match. She noted that Gus Hitz, Assessment Center Director, is working on the issue of common databases. Intensive training on wraparound services will be held in October.

MOTION: Workman moved and Steinman seconded approval of the Staff Meeting minutes dated Thursday, July 27, 2000, as amended. Workman, Heier, Steinman and Campbell voted aye. Motion carried.

2 ADDITIONS TO THE AGENDA

- A. Vacation Request from Dennis Banks, Lancaster County Juvenile Detention Center Director, for August 3-7, 2000 (Consent Item)
- B. Request from Russ Shultz, Noxious Weed Control Authority Superintendent, to attend the North American Weed Management Association Conference and Trade Show in Nebraska City, August 8-10, 2000 (Consent Item)
- C. Cell Phone Service
- D. Letter from Lancaster Manor Advisory Board

MOTION: Heier moved and Steinman seconded approval of the additions to the agenda. Heier, Steinman, Workman and Campbell voted aye. Motion carried.

3 BOARD OF CORRECTIONS - Mike Thurber, Corrections Director

Separate minutes.

4 PRE-TRIAL DIVERSION FUNDING - Dave Kroeker, Budget & Fiscal Officer; Gary Lacey, County Attorney

Dave Kroeker, Budget & Fiscal Officer, said Steve Hubka, City Budget Officer, had contacted him and indicated that the City did not believe there was sufficient justification to increase Pre-Trial Diversion's budget from \$32,000 to \$38,000. The City is only willing to increase the budget to \$33,600, which is a 5 percent increase. He noted that funding has always been equally split between the City and County.

Gary Lacey, County Attorney, noted that Pre-Trial Diversion has not sought an increase since privatization of the program.

MOTION: Steinman moved and Workman seconded to send a letter to the Chair of the City Council describing the County Board's concerns about the City not supporting the Pre-Trial Diversion Program to the extent that they have in the past, with copies to members of the City Council, Mayor Wesely and Dana Roper, City Attorney. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

The Board also asked Lacey to discuss the matter with Dana Roper, City Attorney, and John McQuinn, Chief Assistant City Attorney.

5 ADULT BUSINESSES - Kathleen Sellman, Planning Director; Mike DeKalb, Planning Department; Terry Wagner, Lancaster County Sheriff

Campbell explained that Commissioner Steinman and Jonathan Cook, City Council, have had several discussions of zoning issues with regards to adult businesses. She said companion pieces are desired, however, the City has decided to defer the issue until after its budget is finalized.

Kathleen Sellman, Planning Director, distributed copies of a work-in-progress document containing proposed amendments to *County Zoning Regulations, Article 2, Definitions* that address sexually oriented businesses and related businesses (Exhibit A), noting the following:

Amendment to Article 9, I Industrial District

Amend Sec.9.003 Use Regulations to state:

No building or premise may be used for adult cabaret, adult motion picture theater, or adult media store except as provided in Article 13, Section 13.001 and Section 13.015

Amendments to Special Permit Requirements

To the Zoning Resolution, "Special Permits", add 13.015 "Special Permit Adult Uses", **applicable to only the I Industrial District**, detailing standards for separation of adult businesses from other adult businesses, separation of adult businesses from certain other uses, conditions applicable to certain businesses carrying adult media, and prohibiting motion picture arcade booths as an accessory use in any zoning district.

Mike DeKalb, Planning Department, indicated eight areas zoned I Industrial District on *Zoning: Lancaster County Detail Map* - four unincorporated villages - Agnew, Kramer, Princeton and Prairie Home; four freestanding sites - near Waverly and Greenwood on Cornhusker Highway/U.S. Highway 6 (near the gas pipeline); on 134th & "O" Street (former Bruning plant); on Highway 2 & Highway 43 (known as the Bennet corner) and on West Princeton Road & Southwest 42nd Street (Hallam power plant). He noted that the proposed requirements would not apply to Lincoln's three mile zoning jurisdiction or the one mile zoning jurisdiction of the other incorporated towns.

Sellman said what is suggested in the special permit requirement is a separation not only of adult businesses from one another, but also a separation from other zoned districts. She said ordinances in other jurisdictions have required a 500' separation from certain types of other zoned districts but several of the Industrial (I) Districts in Lancaster County are very narrow pieces, so separation on the basis of other zoned districts would make these parcels undevelopable.

In response to a question from Workman, Sellman said the Supreme Court has indicated that an adequate number of potential sites must be provided.

Steinman asked whether the County Board should look at additional sites that could be zoned Industrial (I) District.

DeKalb said the governing bodies have indicated in the Lincoln City-Lancaster County Comprehensive Plan that other urban uses should be located within incorporated towns and that principle should apply in this case.

Sellman said the County is unique in that there are so many other local governments within Lancaster County that may provide for a location.

Eagan said the courts have not addressed this type of situation. He added that the courts are more likely to regard the City and County as one entity in this case, since there is a joint Comprehensive Plan.

The Board asked the Planning Department to check on how much land is zoned Industrial (I) District within the City's three-mile zoning jurisdiction.

Brief discussion took place on what types of other uses should require separation from adult business, with suggestions that hospitals and the Lincoln Regional Center be included in the list.

Workman asked whether an adult business located in the Industrial (I) District would need to cease operation if surrounding zoning changes, using an example of where the surrounding land is zoned Agricultural (AG) District and changes to Agricultural Residential (AGR) District.

Sellman said it would become a non-conforming business. The Board could state that such a business would become a lawful non-conforming business that could continue to operate on the same scale and uses as it did at the time of the rezoning or the special permit could require reapplication, at which time the new circumstances would come under review.

The Board requested that additional discussion of the issues be scheduled on the agenda for the August 18th City/County Common Meeting, with input from the County Attorney and City Attorney.

Campbell requested that any pertinent articles be provided to the Board prior to that meeting.

Terry Wagner, Lancaster County Sheriff, suggested that the City and County keep the other incorporated jurisdictions in the County updated so that they can be prepared for possible impact to their jurisdictions.

6 MICROCOMPUTER FUND - Dave Kroeker, Budget & Fiscal Officer

Dave Kroeker, Budget & Fiscal Officer, reviewed the following:

- P.C. Requests for FY00* (Commissioners' Information Packet)
- A packet of information detailing microcomputer requests and cost estimates (Exhibit B)
- Expense Budget Object Detail Report by Fund and Agency, Object- 4219, Object Name-Computer Equipment* (Exhibit C)

Board consensus to approve the following microcomputer requests:

- 601/613 County Board/Administrative Services
- 621 Clerk of District Court
- 625 Public Defender
- 648 Records Management
- 652 County Attorney
- 674 County Court Probation (Conditional upon that department using monies remaining from Municipal Court)
- 678 Detention Center
- 751 Mental Health Board

The Board held microcomputer requests for the following agencies and asked that they provide information regarding the age of the existing equipment and reasons for their request:

- 604 Register of Deeds
- 605 County Assessor
- 607 Election Commissioner
- 623 Juvenile Court (Reapply at midyear)
- 624 District Court
- 627 Jury Commissioner
- 645 Extension Service
- 651 Sheriff

The Board also asked that Information Services be scheduled on a future Staff Meeting agenda to discuss the County's replacement schedule.

7 TELECOMMUNICATIONS UNDER ZONING REGULATIONS -
Kathleen Sellman, Planning Director; Mike DeKalb and Jennifer Dam,
Planning Department

Mike DeKalb, Planning Department, explained that a request to build a fiber optic substation in the area of North 40th Street and Mill Road has been received. He noted there is no specific interpretation for fiber optic sites in the County Zoning Regulations, although they have traditionally been treated the same as public utilities, which are allowed by right.

Eagan added that fiber optic companies aren't technically considered to be public utilities.

Jennifer Dam, Planning Department, explained that the City requires public utilities and private companies regulated by the Public Service Commission to have a special permit. She said the County could elect to regard this as similar to land use by public utilities and allow it by right or request a text amendment that would treat it as a special permitted use.

Heier said he would want to ensure that land would revert back to the original owner if the use changed or if the facility was abandoned.

Eagan said it would help to know what type of facility is planned and the extent of condemnation powers under LB 496, which changed right-of-way for telecommunications lines and related facilities and eminent domain powers. He suggested that consideration be given to implementing a conditional special permit.

The Board concurred and asked the Planning Department to develop a text amendment for a conditional special permit.

ADDITIONS TO THE AGENDA

C. Cell Phone Service

Eagan presented a communication from Vince Mejer, Purchasing Agent, indicating that the City has reached an agreement with Alltel to provide cell phone service to the City at a flat rate of .07 per minute (Exhibit D). The County is estimated to save \$4,200 per month by joining the contract. City and County employees will not be able to take advantage of the contract rates for personal use, but a corporate discount is offered. He said Don Killeen, County Property Manager, has indicated that other companies offer an intra communication feature, which could also result in substantial savings.

D. Letter from Lancaster Manor Advisory Board

Eagan distributed copies of a letter from the Lancaster Manor Advisory Board seeking approval to send a letter opposing the proposed Medicaid year-to-year limitation draft to Governor Johanns and the Lancaster County senatorial delegation (Exhibit E).

The Board requested a briefing by Larry Van Hunnik, Lancaster Manor Administrator, and asked that Gordon Kissel, Legislative Consultant, attend.

Campbell suggested that it would be more appropriate for the Lancaster Manor Advisory Board to address the letter to the County Board, rather than the Governor. It could then be forwarded to the Governor with a cover letter from the Board.

RETURNING TO ITEM 2C

Vince Mejer, Purchasing Agent, appeared and explained that the company offering the intra communication feature mentioned by Killeen has a higher base rate, so savings would not be comparable to those in the proposed contract with Alltel. He added that this would be a one year contract, with the option to renew for three additional one year periods. The flat rate of .07 per minute is guaranteed for the four year period.

Board consensus to schedule the contract on a County Board of Commissioners Meeting agenda for action.

8 COUNTY ENGINEERING MAINTENANCE AGREEMENTS - Don Thomas, County Engineer; Kathy Smith, Purchasing Department

Don Thomas, County Engineer, explained that he has budgeted for the three maintenance agreements in question in the Highway Fund. He noted that the agreements, which have expired, cover vehicle testing equipment. Replacement costs for the two pieces of air conditioning equipment are estimated at \$3,500 and \$5000. Maintenance agreements would cost \$449 and \$5000, respectively. The battery charger has a replacement cost of \$3,000 and a maintenance agreement would cost \$300. Thomas said repair of this piece of equipment recently cost the department \$160.

MOTION: Steinman moved and Heier seconded to not obtain maintenance agreements on the three pieces of vehicle testing equipment. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

Kathy Smith, Purchasing Department, agreed to develop a survey asking departments the cost of maintenance agreements, cost of repairs, age of equipment and replacement value for evaluation.

9 REPORT ON CHEETAH'S - Terry Wagner, Lancaster County Sheriff;
Gary Lacey, County Attorney; Dave Johnson, Deputy County Attorney

The following is transcribed verbatim:

Campbell: Number 10 on the agenda. I'd like to make some preliminary comments to start out with. First of all, if there was any misunderstanding Tuesday about my comments at the end of the session when I had asked for the reports. This is not a continuation of the hearing, nor has it anything . . . a point . . . to do with the evidence that we took on the delicensure. So I want to make that very clear. We closed the hearing on that. We are not dealing with the delicensure. The point on the item on the agenda was to ask for a report for the . . . from the County Attorney's office and from the Sheriff's Department on Cheetahs doing business in relation to Resolution 3557. This is also not a public hearing . . . this is a Staff Meeting of the County Board and so we're not taking testimony from folks. We're glad you're all here to listen. You are more than welcome to always attend. This is a public meeting, but it's not a public hearing. So, with that, I'm going to go ahead and proceed and ask for the report from the two county offices. I don't know who is starting first . . . Dave or Terry?

Wagner: Okay. On Friday, as you know, Cheetahs opened at about four o'clock in the afternoon. We had deputies that made contact at Cheetahs about three times on Friday, again on Saturday, and we had deputies out there again last night to clarify some issues that I had regarding access . . . and I think the Board had those same questions on Tuesday . . . with access from the Coaches area into the central portion of the entire facility. Basically just to highlight some of those areas . . .

Campbell: Terry, they can't hear. I'm sorry . . . is that your problem Kerry? Okay.

Wagner: Okay, just to summarize some of the information that the deputies provided . . . about 60 patrons in the bar at the time they arrived. Initially there was only one stage. A second stage was erected, so both east and west areas of the establishment have stages for dancing. The dancers stripped down to a G-string only, with no coverings at all on the breasts or nipples. The waitresses were all clothed. The dancers, when they weren't dancing, were fully clothed. There didn't appear to be anybody that was intoxicated in any of the visits that were there. The I.D.'s were checked at the door for compliance with 21 years of age. And I guess the other comment that's notable. . . the dancers were all wearing a garter on their leg so that when patrons wanted to tip them, the only touching of the dancer was with the leg above the thigh and a garter. So, I know sometimes that can be a point of . . . a point of seriousness from our perspective with how the tips are received by the dancers, and so it looked like that was being handled with a minimal touching. Last night a deputy went back out and made contact with Mr. Robinson, who is the contract entertainment provider, and really went over the doors . . . because I think the configuration of that whole facility has changed. If you remember, that facility used to be a small place called Clem's Fireside Inn back in . . . when I started in the office. And it was a small . . . a small tavern. Since that time there have been additions onto the east, I think two

additions, and one to the west along with the volleyball court . . . or the volleyball court is to the east and then additions to the west, to include Yankee Doodle's. And at one point, when that whole facility was owned by one person, you could go from the convenience store on the far west . . . work your way through a series of back doors or passageways into the center portion, which is where Cheetahs is now, and then make your way toward Coaches, which used to be the Prospector, on the far east side. So there was . . . I think one of our concerns was that there was access from the far west to the far east. As the deputy described it, there are basically . . . if you look at the center portion of the building, there are two sets of doors. One on the east side and one on the west side. The west . . . the east doors were locked and so no entrance was permitted there, which also has an adjoining door that leads into Coaches. Okay? I hope I'm making this sort of clear. If you enter . . . you have to enter into the west door, which is between Yankee Doodles, the convenience store, and Cheetahs. You enter that west door. . . there is no access into the convenience store any longer. There's a bar area as you walk in there . . . and there's five additional doors that lead to the outside of the facility. That southwest door that I mentioned was manned by at least one doorman at all times . . . that's where I.D.'s are checked and the cover charge is obtained from patrons. There's a storage room and restrooms on that west end, but there are no doors leading into the Yankee Doodle's convenience store. You do have to go outside of Cheetahs to get into the convenience store or into Yankee Doodles . . . or Yankee Doodles or into Coaches. On the north door, which would be the back side . . . there's a parking lot out there as well. .there are four doors, three of which are sealed and dead bolted. He doesn't even have keys to unbolt those doors and somehow they're sealed shut . . . doesn't know for sure how to get them open. Three of those doors were sealed with chairs and other items stacked in front of the doors so they . . . they couldn't be opened if they wanted to. One door, which was not sealed, is located on the north wall, furthest to the west and adjacent to the end of the bar. It's dead bolted right now and the only way anyone can get in there is to knock, and then a bartender would have to unlock that door to allow somebody in. I believe tomorrow there's a plan to install panic alarms and panic crash bars on that door so that it can be opened from the inside in case of fire. On the east door . . . and I think that's the door that I was concerned about on the east side of this facility. . one door, which is dead bolted and sealed . . . and it leads to an approximate 6 to 8 foot foyer area and that foyer area is also the foyer area for Coaches, that door is . . . they'd have to break that door open to get into that foyer area into Coaches. On the south wall is the main entrance which leads . . . okay, the southeast corner, which would be near the side area I was just talking about . . . there's a door, which is a glass door, it is dead bolted. Its got a black, thick sheet that's been tacked up so nobody can look in there. He does have a key for that door . . . and then they're going to put up contact paper on that door so that it'd be impossible to see from the outside. There's also going to be a panic alarm and a crash bar installed there so that if somebody did have to exit, they could do so but it would set off an alarm. On the east wall there are two doors . . . one of them goes into changing rooms that do not have doors that go into Coaches, so its completely sealed off from the Coaches area. If there's no way to get from Cheetahs

into Coaches without going outside at the current time. On the north wall, then again, there are two doors which lead into what used to be the kitchen area. The kitchen area is closed off, it is not being used. And then there's a door from there that leads from there to the outside and its dead bolted and sealed and then two doors that lead into the kitchen area, they are dead bolted and can not be opened without a key. And then there's a storage area also on that north wall. There is a glass door that used to lead from the . . . from Coaches into the center portion. That area was locked. Robinson does have a key for that door, but that would be the only door that is somehow not sealed shut from the Coaches area. So that's basically . . . kind of the gist of the configuration. They did observe alcohol being served to patrons. Like I said, no one was observed to be intoxicated. There were . . . waitresses were fully clothed and I.D.'s were being checked at the door prior to entry. So that's kind of the operation that was going on.

Campbell: Okay.

Heier: That was the answer to the question I was going to ask, but alcohol was being sold and served?

Wagner: Yes.

Campbell: Okay. Bob?

Workman: Sheriff Wagner, you said there were probably 60 patrons there on that first evening. Were they generally men or women? Or were they all men?

Wagner: It doesn't say. It doesn't specify.

Workman: Do we have any . . . I'm wondering, do we have any inkling of what the age group of the patrons?

Wagner: I don't have any information on that.

Workman: And you had mentioned that they are checked at the door for I.D.'s. I'm a little bit surprised that 20 year olds are able to get into a facility, but that's our law. Isn't that correct?

Wagner: 21.

Workman: Oh, it has to be 21. I thought you said 20. I'm sorry.

Wagner: No, 21.

Workman: Okay, so they have to be 21 before they enter the facility.

Wagner: Right.

Workman: And this east door that's locked that goes to Coaches . . . in your opinion would that be somewhat of a fire hazard to have that door . . . would that be a door that you would want to get out of in case of fire?

Wagner: Well, I think right now there's only one door that can be exited in case of fire. That would be . . . that would not have to be unlocked. That would be the main door at the southwest corner. The other doors are either locked with a key or they're dead bolted and some of them have, you know, chairs and tables in front of them. So I would think there needs to be more access. And I think that's the plan for tomorrow is to install crash bars and those alarms on those doors so that there's more adequate fire exits. Both that southeast door and a couple of doors on the north side.

Workman: Thank you.

Campbell: Okay, any other questions from the Board for the Sheriff?

Okay. Dave, did you have a question for Terry?

Johnson: No, I didn't. Thank you.

Campbell: And you're going to have to really talk . . . speak up, because your voice is really soft.

Workman: Can everyone hear now? Or we . . . it's difficult? You know I don't . . . I don't honestly think there would be any objection if you wanted to move your chairs a little bit closer. That would be fine with us, if you're having a problem. Would that be okay?

Campbell: Sure. I think part of the thing is the fans. I know a couple of weeks ago on another issue Mr. DeKalb was having trouble hearing in the back because of the fans.

Workman: Nothing is more frustrating than trying to listen over that.

Campbell: No. Okay. So at this point, Terry, the . . . any fire hazards from the door situations are being covered. Is that the point?

Wagner: Yes. You mean . . .

Campbell: I mean . . .

Wagner: . . . fire exits?

Campbell: . . . so that there's exits . . .

Wagner: Right.

Campbell: . . . for fires.

Wagner: That's going to be addressed tomorrow. It hasn't been up to now.

Campbell: Okay, right.

Wagner: It wasn't last night.

Campbell: I understand that. Okay, Linda?

Steinman: There . . . there was a concern that there were not building permits issued for the construction in the . . . in this facility. Are . . . have the deputies looked at that? Or is that . . .

Wagner: I'm not aware of that and we don't enforce building permits. That's a codes violation.

Steinman: Well, I knew that . . .

Wagner: Yeah.

Steinman: . . . but I just wondered if you had any information.

Wagner: No, we don't.

Campbell: Dave?

Johnson: To answer Commissioner Steinman's question, I had spoken with the head of Building and Safety and he had indicated that . . . as of Friday when I had spoke to him at the suggestion of Kathy Campbell, that everything was up to code. That they found one thing that needed to be fixed and it was fixed immediately, prior to opening. I think they opened on Thursday or Friday.

Steinman: Friday.

Johnson: Friday.

Steinman: Thursday.

Johnson: Thursday. With that . . . also, though . . . the County Board may

want to direct Building and Safety to take a look with regards to the new addition with crash bars and things to make sure that it is up to code with the Fire Marshall. I was asked by the County Board to take a look and give a report with regard to (Resolution) 3557. (Resolution) 3557 was adopted on December 16, 1980. And essentially within (Resolution) 3557 it indicates that the County Board may either revoke or suspend a liquor license when "The licensee, manager or agent shall allow any live person to appear, or have reasonable cause to believe that any live person shall appear in any licensed premises in a state of nudity, to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as an employee in any capacity. For the purpose of this subsection, the term "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breast including the nipple or any portion of the breast below the nipple with less than a full opaque covering." I was also asked by the County Board to find out what possible avenues the County Board . . . or how they should proceed in acting in this. And I made contact with Laurie Smith Camp with the Liquor Commission. I also looked at the Statutes and there are several avenues that I believe that the County Board can take. One of which is to serve . . . have the County Attorney's office draft a notice with regards to ceasing and desisting from the practice of either having the nudity or the alcohol, as the case may be. Once again, the information that you took from the Sheriff's office was informational, it wasn't to serve as testimony at a hearing where the other side would have an opportunity to be heard with that regard. After the notice to cease and desist . . . to my understanding is that this is an ongoing investigation by the Sheriff's office . . . that we would find out if, through their reports, that this sort of conduct is still occurring. And if so, then the County Board would issue a notice for show cause and set a hearing. At that hearing, the County Board could take one of two actions. That . . . if they found there was enough evidence to seek revocation, they could, by resolution, direct the County Attorney's office to proceed with seeking revocation of the license at the Liquor Commission or at that time they could actually, by resolution, decide to revoke or suspend the license. Those are the various avenues. (Nebraska Revised Statute §) 53-134, Subsections 1 and 6, under the Liquor Statutes allow the County Board "To cancel, revoke, or suspend for cause retail, bottle club, or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction" with the right of appeal to the Commission. Also, and the thing in particular that I want the Commissioners to note, is to cancel or revoke for cause. Under Subsection 6 it also provides for "To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor." Once again, that order of cancellation and revocation would be appealable to the Liquor Commission. One of the other things with that . . . the notice requirements that I've talked to you about, somewhat, are actually the added notice that we could provide if the notice to cease and desist, if this conduct is going on . . . ongoing there. And that's an effort to make the establishment aware that its come to our attention and that there's a concern with regards to this. But then the other would

be that notice be provided with regards to the show cause hearing and that would have to be within ten days of the complaint or actually receipt of the notice.

Campbell: Okay. Questions on what Dave has covered? We'll take Bob and then Linda.

Workman: So you're saying, Dave, that perhaps an approach that would be an option to us at this time would be to send out a notice of cease and desist and that this cease and desist would be because of what perhaps could be a violation of our Article 53-134.

Johnson: That's . . .

Steinman: No. No.

Johnson: . . . our 53 . . .

Steinman: Its (Resolution) 3557.

Johnson: Our (Resolution) 3557.

Campbell: Our resolution.

Workman: (Resolution) 3557. Oh, our resolution.

Johnson: That's correct.

Workman: Oh, right . . . (Resolution) 3557. I'm sorry. And then if we . . . if we would proceed to the point which you had mentioned . . . to a point where the County Board would rule to revoke this license . . . is that revocation, then . . . can that revocation be turned around by the Liquor Commissioner without a hearing?

Johnson: No. It would be incumbent upon the party with the license that had been revoked by the County Board to appeal it to the Liquor Commission.

Workman: So, in a sense, the County Board has final jurisdiction on the revocation of liquor licenses.

Johnson: It would be a final order with regards to the resolution that you have, in this case. And based upon that . . . upon receiving the final order, the Liquor Commission would hear the appeal.

Workman. Okay. Thank you.

Campbell: Okay. Linda? And then Bernie.

Steinman: However, the Liquor Commission, after hearing the appeal would they have to respond to our resolution? Would that . . . would that continue to be in effect? Would that bind them, in other words, in terms of a finding?

Johnson: I would argue that they should be bound by the order of, or the decisions of the County Board. But from a legal standpoint, what they would look at is the record at the show cause hearing and make their determination on whether or not revocation should have been too excessive. They might indicate that suspension was more appropriate. They might overturn it entirely.

Campbell: Okay. Bernie?

Heier: If things do happen in that sense and there is an appeal to the Liquor Commission, is that a public hearing?

Johnson: Yes. Well, public hearings . . .

Heier: For a public appeal.

Johnson: . . . its open to the public. But what I would then do is go with Sheriff Wagner, if necessary, and the deputies who had the reports and present to

them the evidence, a certified copy of our resolution and also, more likely than not, the minutes from the show cause hearing or transcript.

Campbell: Bob?

Workman: Could we say that this cease and desist notice is a matter of courtesy on our part? And that, when I read the laws here, it almost tells me that, at this point, we could go for revocation, at this point, without a cease and desist letter.

Johnson: You would start the proceedings with a notice for the show cause and then have the show cause hearing. And yes, I would say that the cease and desist is a matter of courtesy that I think would be an avenue to take in light of the fact that the we're attempting to make this work out.

Heier: So you can't do both at one time?

Johnson: I would advise against that.

Heier: Okay.

Campbell: Okay. Dave, at . . . if this. . . if we proceed through those steps and this is appealed to the State Liquor Commission and the Liquor Commission sets down their final word and finding. Is . . . that's finally binding? We would have no other recourse?

Johnson: We can appeal.

Campbell: To?

Johnson: The Liquor Commission's findings to . . . I believe it's the District Court of Lancaster County.

Campbell: Okay.

Johnson: With that, there are other avenues. But those are aside from the issue that we're speaking of today, which is the liquor and the nudity.

Campbell: Right. Okay. Bernie?

Heier: So, if the order were . . . for cease and desist . . . is that an . . . everything to happen on that establishment. I mean, are they just . . . do you evade that by alcohol. . . by not serving alcohol?

Johnson: Well . . .

Heier: Or is the whole schmeer . . .

Johnson: Well, what I'm . . . what I'm telling them is that it's a licensed premise, as we know it, and that we've . . . that the County Board has received information that nudity is occurring there also. With that, its sort of a letter that says . . . one or the other. If, again, the licensed premise is the Coaches . . . is the only way I can describe it is . . . is that the first third is Yankee Doodles and the other two thirds is the licensed premise.

Heier: I understand what you're saying.

Campbell: That answers your question?

Heier: Yes. Thank you.

Campbell: Okay. Any other questions? Linda? Then Bob.

Steinman: I don't know . . . if we choose to address the nudity issue . . . we can . . . we can decide whether the liquor or nudity, is that correct?

Johnson: No. I think its up to them with regards to . . . we're just saying we have a resolution that prohibits these two things from occurring at the same time.

And if they then wish to . . . from the cease and desist . . . its one or the other. If they decide then to relinquish the liquor license on that two thirds premise, then that'll have to come back before the County Board in regards to the process to do so. If they choose to stop having performers perform in the terms that we use as nudity, then I would say that they would be within the resolution.

Heier: Because . . .

Campbell: Bernie, go ahead, and then Bob.

Heier: At this point, I'm ready to proceed with a cease and desist. And I need guidance as to how to get there. So, does this happen at a public hearing? Is that what we do? Or do we do that today? Or do we do that ...

Johnson: You would direct . . . you could direct the Sheriff's office, but you could direct the County Attorney's office to draft and send a . . . to send a cease and desist notice to the individual who has the licensed premise, which is Mr. Hartman. We can do that by and through his attorney, which my understanding would be a Mr. Peter Katt. And that . . . also today you could direct the County Attorney's office that if that does not occur, based upon police reports from the Sheriff's Office, to proceed to also draft the . . . send a show cause notice to Mr. Hartman, by and through his attorney.

Heier: I'm ready to take that step.

Campbell: Okay. We're gonna finish . . . we'll take the comments and then we'll come back to that.

Workman: That was just my question. Would it be appropriate to make a motion at this meeting to cease and desist?

Campbell: That's the question to Dave?

Workman: Yes.

Campbell: So the notice would be sent by a letter?

Johnson: That's correct.

Workman: Well, okay. I would like to make a motion that the County Board instigate a notice for cease and desist being sent to Mr. Katt, the representative of Mr. Hartman, in reference to our Resolution No. 3557 and the establishment better known as Coaches. And Dave, please (inaudible) on that if you'd like.

Eagan: Just . . . I would say good and proper legal service, whether Mr. Katt can act as his agent for service of process at this point in this issue, I don't know. He could possibly accept that. But I would just say have it legally served, rather than served on an attorney.

Workman: Okay, I would include that in the motion.

Heier: (Inaudible)

Steinman: Second.

Heier: Excuse me.

Campbell: Okay. So the motion on the floor is to request the County Attorney to send a . . . a good and proper legal notice and service of letter for cease and desist to Coaches in relation to Resolution 3557.

Heier: I want a clarification. When you talk about sending, are you talking about sending it via mail or sending it via the Sheriff.

Johnson: Proper notice.

Campbell: Proper notice. Good and proper notice.

Eagan: Its outlined . . .

Heier: Okay.

Eagan: . . . in the Nebraska code.

Campbell: Okay.

Workman: Now this motion and second brings up one question in my mind. Is there a date for the cease and desist? A termination date?

Johnson: I would say that is effective immediately because they are in contravention to the resolution anytime someone goes up there nude dancing. The other possible friendly amendment would also be to add the notice for a show cause hearing also be drafted by the County Attorney's office.

Campbell: Or we could also have a separate motion.

Eagan: If they fail to (inaudible) cease and desist.

Workman: I'm not sure if we would have to have that as part of the motion now, since we're assuming that perhaps they'll comply.

Campbell: But I think what we do is take a second motion . . .

Steinman: Right.

Campbell: . . . to request that the County Attorney prepare a notice for a show cause hearing, should that action . . .

Workman: Be necessary.

Campbell: Yeah. I think we'll take them . . .

Workman: A second motion.

Campbell: . . . in two motions, okay, based on what Dave told us. Okay, any other comments to the first motion? Does everybody understand? Ann, do you need any clarification?

Taylor: I'll listen to the tape.

Campbell: Okay. All righty. Voting on the first motion then, Bob?

Workman: Yes.

Campbell: Bernie?

Heier: Yes.

Campbell: Linda?

Steinman: Yes.

Campbell: And Kathy is a yes. The County Attorney has suggested an appropriate second motion. Is the Board interested in that?

Heier: Yes.

Steinman: Yes. I would make a second motion that the County Attorney prepare a show cause hearing in the event that we would need to implement it.

Heier: Second.

Campbell: Okay.

Johnson: That would be a notice for show cause.

Steinman: A notice for show cause. Yes.

Campbell: Okay. Clarification on that motion, Ann?

Taylor: No, I'm okay.

Campbell: Okay, any comments? Okay, voting on that motion, Linda?

Steinman: Yes.

Campbell: Bob?

Workman: Yes.

Campbell: Bernie?

Heier: Yes.

Campbell: And Kathy is a yes. Okay. Any other comments that you have? One of the . . . one of the e-mails that the Board received was a communication from Mr. Katt, who is representing Mr. Hartman, and had indicated an interest in discussing . . . or asking some questions, whatever, about this issue. And it would seem to me that the Board could request that Kerry and Dave visit with Mr. Katt about the e-mail or the letter just to make sure that there aren't any other lingering questions. Okay. Is that acceptable . . .

Workman: That's fine.

Campbell: . . . with the Board?

Heier: That's fine.

Campbell: Okay. So by consensus, we'll indicate that we'll ask Dave and Kerry to visit with Mr. Katt on any of the questions regarding the issue. All right. Any other comments that the Board wishes to make about the issue?

Lacey: Just one other comment . . .

Campbell: Yes, Gary?

Lacey: . . . for me is that, if there appears to be a violation after the show cause order, I would strongly advise the Board to have a court reporter at the hearing so that we don't have any problems with hearing testimony and so forth over a public p.a. system and so that the record is absolutely clear concerning the evidence. I also think that, just as a matter of policy, that the rules of evidence ought to apply and we will advise you on that.

Campbell: Gary, it would be helpful I think, for the Board, for if you would prepare a memo to the effect of what you just covered and so we know . . . hearing or how it might be set up is that I really need to know is whether there'll be . . . what kinds of testimony will be taken and is it considered like a public hearing or is it a separate hearing? My understanding is that its not considered necessarily like a public hearing. But I think it would be helpful for the Board if you would outline that for us. Okay. Any other comments? All right. With that, we'll conclude this item and move on to the other items on our agenda for this morning and I appreciate the reports of both the Sheriff and the County Attorney.

10 CONSENT ITEMS

- A. Vacation Request from Mike Thurber, Corrections Director, for Friday, August 11, 2000
- B. Vacation Request from Dennis Banks, Lancaster County Juvenile Detention Center Director, for August 3-7, 2000
- C. Request from Russ Shultz, Noxious Weed Control Authority Superintendent, to attend the North American Weed Management Association Conference and Trade Show in Nebraska City, August 8-10, 2000

MOTION: Workman moved and Heier seconded approval of the Consent Items. Workman, Heier, Steinman and Campbell voted aye. Motion carried.

11 ADMINISTRATIVE OFFICER REPORT

- A. Lancaster County Detention Center Construction Update

Eagan reported that he had attended the monthly construction meeting for the new Lancaster County Detention Center and said the project is on schedule with half of the steel framing in place. He said a quality control inspector hired by the contractor had expressed concern about a weld on couple of the joints that connected the steel beams above one of the supports, but correction will not be difficult.

12 DISCUSSION OF BOARD MEMBER MEETINGS

- A. Ecological Advisory Committee - Heier

Heier said Mike DeKalb, Planning Department, gave a presentation that included soil maps.

13 EMERGENCY ITEMS AND OTHER BUSINESS

Dave Kroeker, Budget & Fiscal Officer, reported the following budget adjustments:

- Rural Library - Lower \$400
- Community Mental Health Center - Need to adjust to reflect loss of Vocational Rehabilitation Program
- Election Commission - Lower \$6,000
- Corrections - Possible overtime adjustment

14 ADJOURNMENT

By direction of the Chair, the meeting was adjourned.

Bruce Medcalf
Lancaster County Clerk